of the attorney constitute a waiver of further performance by him. *Hill* v. *Cunningham,* 25 Tex. 25; *Larned* v. *City of Dubuque,* 86 Ia. 166, 53 N. W. 105; *Cheshire* v. *Des Moines City Ry. Co.,* 153 Ia. 88, 133 N. W. 324. But in these cases the attorney is not confined to an action on the contract, and no act of the client will deprive him of his right to recover on a *quantum meruit* the reasonable value of his services. *Duke* v. *Harper,* 8 Mo. App. 296. See *Cosgrove* v. *Burton,* 104 Mo. App. 698, 78 S. W. 667.

As to the right of the one who is guilty of a breach of contract to recover on a *quantum meruit* the value of the services already rendered, which it seems should apply as between attorney and client, see 4 VA. LAW REV. 66.

AUTOMOBILES—LIABILITY OF OWNER—NEGLIGENCE OF SON IN DRIVING.—The son of an owner of an automobile negligently ran into the plaintiff's horse while using the automobile for his own pleasure. Plaintiff brought an action against the father for damages. *Held,* the father is not liable. *Cohen* v. *Meadow* (Va.), 89 S. E. 876.

For discussion of principles involved, see full and excellent article by Mr. Ashley Cockrill, 2 VA. LAW REV. 189.

CORPORATIONS—DIRECTORS AS TRUSTEES—STATUTE OF LIMITATIONS.—The directors of a bank set up the statute of limitations in defense to an action by the receiver of the bank to recover damages for losses caused by negligent mismanagement of the affairs of the corporation, resulting in the bank's insolvency. *Held,* upon the application of the principles of concealed fraud, and trust relationship, the statute will not bar the action by the receiver; since it was instituted within a reasonable time after his appointment. *Ventress* v. *Wallace* (Miss.), 71 South. 636. See NOTES, p. 221.

COURTS—CONCURRENT JURISDICTION—PRIORITY.—A bill was filed in a state court to have a receiver appointed for an insolvent corporation, under a state statute. Before a receiver was appointed by the state court, a trustee under a mortgage given by the corporation filed a bill in a federal court of concurrent jurisdiction praying for foreclosure of the mortgage and the appointment of a receiver pending the final decree, and a receiver was accordingly appointed. Later, a receiver was appointed by the state court who petitioned the federal court to order the receiver appointed by that court to turn over the assets of the corporation to him. *Held,* petition dismissed. *Empire Trust Co.* v. *Brooks,* 232 Fed. 641. See NOTES, p. 229.

GIFTS—GIFTS CAUSA MORTIS—DELIVERY TO AGENT.—The donor, on his death bed, placed a check in the hands of a relative of the donee, with instructions to give it to her in event of his death. *Held,* there was a valid gift *causa mortis. Sharpe* v. *Sharpe* (S. C.), 90 S. E. 34.

It is not essential to the validity of a gift *causa mortis* that the donor deliver the property directly to the donee. It is well settled that de-

livery to a third person with instructions to turn the property over to the donee is sufficient. *Williams* v. *Guile,* 117 N. Y. 343, 22 N. E. 1071, 6 L. R. A. 366; *Kemper* v. *Kemper,* 1 Duv. (Ky.) 401, 85 Am. Dec. 636; *Caylor* v. *Caylor's Estate,* 22 Ind. App. 666, 52 N. E. 465, 72 Am. St. Rep. 331; *Hogan* v. *Sullivan,* 114 Ia. 156, 87 N. W. 447. This is true even when the donor expressly instructs the agent to deliver the property after his death; since delivery to the agent of the donee is equivalent to delivery to the donee. *Varley* v. *Sims,* 100 Minn. 331, 111 N. W. 269, 10 Ann. Cas. 473; *Devol* v. *Dye,* 123 Ind. 321, 24 N. E. 246, 7 L. R. A. 439. But see *Windows* v. *Mitchell,* 5 N. C. 127. And the death of the agent before delivery by him to the donee does not defeat the gift. *Caylor* v. *Caylor's Estate, supra.* Nor is it defeated by the fact that the agent is the husband or wife of the donor. *Grymes* v. *Hone,* 49 N. Y. 17, 10 Am. Rep. 313. Or that he is a member of the donor's household. *Waring's Adm'r* v. *Edmonds,* 11 Md. 424.

Where the donor expressly retains control over the property delivered to the agent, the delivery is not sufficient, for then the agent is only the agent of the donor. *Daniel* v. *Smith,* 75 Cal. 548, 17 Pac. 683. Where he delivers property to an agent to be given to a third person in the event of the donor's death, yet reserves the right to the income from the property during his natural life, this is not sufficient to create a valid gift *causa mortis. Noble* v. *Garden,* 146 Cal. 225, 2 Ann. Cas. 1001. The same is true where the agent is allowed to use the property for all further needs of the donor, and to deliver what is left at his death to the donee. *Daniel* v. *Smith, supra.* And where the agent is to use a part of the property in connection with the funeral before turning over the rest to the donee, there is no gift. *Nelson* v. *Peterson,* 202 Mass. 369, 88 N. E. 916, 132 Am. St. Rep. 503. But it has been held, although the decision seems doubtful, that a delivery to an agent with express instructions to keep the property for a while in anticipation of the further needs of the donor, is sufficient in spite of the instructions. *Grymes* v. *Hone, supra.* In the absence of evidence to the contrary, it will always be presumed that the third person is the agent of the donee, and not of the donor. *Johnson* v. *Colley,* 101 Va. 414, 44 S. E. 721, 99 Am. St. Rep. 884; *Varley* v. *Sims, supra.* It is not requisite to the validity of a gift made through a third person that the donee expressly accept it, since it is presumed that he will accept what is a benefit and no burden. See *Varley* v. *Sims, supra.*

The gift is invalid when the instructions for distribution by the agent are uncertain and indefinite. See *Newton* v. *Snyder,* 44 Ark. 42, 51 Am. Rep. 587. Where the agent is trustee for the donees, and neither the beneficiaries nor the shares of each are clearly expressed, the gift fails and the property attempted to be disposed of goes to the personal representatives of the donor. *Sheedy* v. *Roach,* 124 Mass. 472.

INSURANCE—FORFEITURE—SALE BY TENANT IN COMMON.—An insurance policy which contained a condition that if any change in interest, title or possession take place the entire policy should be void, was issued to tenants in common covering certain property. One of the tenants